

Notice of Allowability

Application No.

09/701,486

Applicant(s)

YATOMI, TAKEHIRO

Examiner

Zachariah Lucas

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Response of October 3, 2003.
2. ☒ The allowed claim(s) is/are 1,5-7 and 10-13.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>1-12-2004</u> |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. <u>10-3-2003</u> | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

DETAILED ACTION

Status of the claims

1. Claims 1, 3-7, and 10-13 are pending in the application. As claim 1 is allowed, the outstanding species election between the elected group and claim 4 is withdrawn. However, as indicated below, claim 4 has been cancelled from the Application to bring the claims into condition for immediate allowance. The claim is therefore no longer pending in the application.
2. Claims 1, 5-7, and 10-13 are allowed as indicated below.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on October 3, 2003 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

Claim Rejections

4. **(Prior Rejection- Withdrawn)** Claims 1, and 5-7 were rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a method of treating an autoimmune demyelinating disease using anti-Fas ligand antibodies, does not reasonably provide enablement for methods of treating any such disease using any Fas antagonist that blocks Fas-Fas ligand binding and therefore suppresses apoptosis. In view of the Applicant's arguments, the rejection is withdrawn.

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5. **(Prior Rejection – Withdrawn)** Claims 1 and 5-7 were rejected in the prior action under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of D'Souza, and Wallach et al., U.S. Patent 6,399,327, and further in view of Lynch. The rejection is withdrawn in view of the Applicant's arguments, which were found persuasive.

EXAMINER'S AMENDMENT

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with MaryAnne Armstrong on January 6, 2004.

The application has been amended as follows:

In line 5 of claim 1, the comma between the term "apoptosis" and the phrase "in myelin sheath cells" has been deleted.

Claim 4 has been cancelled from the application.

Claim 4 was cancelled from the application at the Applicant's request after the Examiner indicated that further examination would be required of the claim before the case would be allowed.

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7. The following is an examiner's statement of reasons for allowance: New claims 10-13 are found allowable in view of the fact that the Applicant has indicated that the claimed invention is directed to the treatment of demyelinating diseases through the administration of Fas antagonists that inhibit Fas-Fas ligand binding and thereby suppress apoptosis. See e.g., Page 6 Applicant's Response filed March 17, 2003. The allowed claims are therefore allowed on the basis of these functional requirements as argued by the Applicant.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

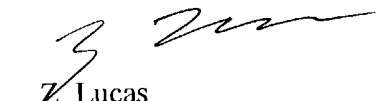
Conclusion


8. Claims 1, 5-7, and 10-13 are allowed.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachariah Lucas whose telephone number is 703-308-4240. The examiner can normally be reached on Monday-Friday, 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on 703-308-4027. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.


Z. Lucas
Patent Examiner
January 12, 2004


JAMES HOUSEL 1/12/04
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600